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VIA ECF

Honorable William H. Orrick, U.S.D.J.
United States District Court
Northern District of California

Re: *B.S.D. Crown, Ltd. v. Amazon.com, Inc., et al.* Case No. 3:23-cv-00057-WHO (N.D. Cal.)

Honorable Judge Orrick:

The Parties submit this joint letter concerning the status of the *ex parte* reexamination by the United States Patent and Trademark Office (the “USPTO”) of the patent-in-suit, U.S. Patent No. 6,389,473 (the “’473 Patent”).

On March 29, 2024, the Court stayed this litigation pending the USPTO’s *ex parte* reexamination of certain claims of the ’473 Patent with instructions to provide “updates on the status of the USPTO proceedings.” Dkt. No. 109 (“Stay Order”) at 3. The Parties now respectfully update the Court that the prosecution of the *ex parte* reexamination has been terminated with the USPTO issuing a Notice of Intent to Issue *Ex Parte* Reexamination Certificate (“NIRC”) (**Ex. 1**) confirming the patentability of the challenged claims of the ’473 Patent:

1. In this litigation, plaintiff B.S.D. Crown (“BSD”) has asserted claims 1, 2, 8, 9, 10, 11, 12, 13, 14, 21, 23, and 24 (the “Asserted Claims”) of the ’473 Patent pursuant to Patent L.R. 3-1.
2. On September 1, 2023, non-party Unified Patents, LLC filed a request for an *ex parte* reexamination of ’473 Patent claims 1, 2, 13, 21, 23, 24, 25, 36, 37, 38, and 41 (the “Challenged Claims”).
3. Unified Patents did not request reexamination of Asserted Claims 8, 9, 10, 11, 12, and 14.
4. On October 5, 2023, the USPTO ordered an *ex parte* reexamination of all the Challenged Claims.
5. On February 12, 2024, the USPTO issued a non-final office action initially rejecting the Challenged Claims, with BSD having an opportunity to respond to the USPTO’s initial position.
6. BSD responded to the non-final office action on May 13, 2024.
7. On July 2, 2024, the USPTO issued an NIRC confirming the patentability of all the Challenged Claims.

The prosecution of the *ex parte* reexamination has been terminated. *See* MPEP § 2287 (a NIRC informs “the patent owner and any third party requester that the reexamination prosecution has been terminated”). While the USPTO has not yet issued an *ex parte* reexamination certificate,

the USPTO updated the proceeding status on July 10, 2024 indicating the “Reexam Terminated – In Publication for Issue of a Certificate.” **Ex. 2.**

BSD has informed Defendants that it intends to file a motion to lift the stay. Amazon has informed BSD that it intends to file its own *ex parte* reexamination request by August 15, 2024, and that Defendants would oppose the motion.

Respectfully submitted,

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